



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Firearms (Amendment) Regulations
(Northern Ireland) 2011: Consultation
Outcomes

28 February 2013

NORTHERN IRELAND ASSEMBLY

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Firearms (Amendment) Regulations (Northern Ireland) 2011: Consultation Outcomes

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Alex Easton
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley

Witnesses:

Mr Nick Cochrane	Department of Finance and Personnel
Mr Robert Kidd	Department of Justice
Mr Simon Rogers	Department of Justice
Chief Supt Mark Hamilton	Police Service of Northern Ireland

The Chairperson: I welcome Simon Rogers, deputy director of the protection and organised crime division in the Department of Justice (DOJ); Robert Kidd, head of firearms and explosives branch in the Department of Justice; Nick Cochrane, who is from the delivery and innovation division of the Department of Finance and Personnel (DFP); and Chief Superintendent Mark Hamilton from the Police Service of Northern Ireland. You are all very welcome. This session will be recorded by Hansard, and a transcript will be published in due course. Simon, I hand over to you.

Mr Simon Rogers (Department of Justice): Thank you, Chair. We last briefed the Committee on 31 May, prior to the release of the consultation document. We are here today to comment on the outcome of the consultation and to seek your views for the Minister. Subject to those views, there would need to be legislation to increase the fees via statutory rule. Any new fees and any changes for young shooters, etc, would require primary legislation.

As you will have seen from the papers, we need to do more work on a banded system, and I will come back to that. The statutory rule could be brought forward quite quickly with agreement, with primary legislation to follow. The consultation document focused on fees, but there were a number of other proposals around the age at which young people can use firearms and, as I mentioned, the banded system.

I will start with fees, which was the issue that got most attention in the responses. Thirty-five of the 44 consultees expressed concerns about the fees, particularly the firearm certificate (FAC) fee and the firearm dealer fee. Two of the principal concerns centred on the inefficiency of the service that is provided and the applicants' feeling that they were paying for something that is a public safety issue.

At the outset, I should point out that our approach to the fees — *[Interruption.]*

The Chairperson: I am sorry. I ask everyone in the Public Gallery to make sure that their phones are switched off, please.

Mr Simon Rogers: Our approach to the fees was to achieve full cost recovery in the licensing regime, which is what is required of us by DFP policy. I mentioned the inefficiency of the service. In conducting the review of the system for us and in identifying appropriate fees, DFP operated on the basis of the time spent in processing an application.

As you will have seen, the report refers to a separate "lean review", which took place at the same time as the fee review. That was carried out by a separate consultant and looked at efficiency. It identified some reductions in processing times, which were taken into account when the fees were being calculated. We think that we have looked at that issue in arriving at the fee rates. I should, of course, note that a number of costs for things such as security and appeals are not included, and also that civilianisation in the branch will keep the cost down.

Not only is public safety clearly a priority for the Chief Constable, but he has a statutory duty to consider it when each FAC and dealer certificate is issued. Our view is that public safety is an integral part of the process and not a separate issue and, therefore, the fees should include that element of the work.

A number of people expressed the view that firearms dealers' fees should be split, based on the number of firearms that they sell. We have considered that, particularly with the police, perhaps basing the fee on size or turnover, but, after looking at it, we have established that, irrespective of a dealer's size, the set-up arrangements are virtually identical and, therefore, the costs are almost the same. Our approach has been to apply one fee across all dealers, which is the same position as in GB and in the Republic.

We looked at the rates for firearm dealers' fees, along with FAC fees, that were put before the Committee and in the consultation prior to coming back today. As we have highlighted in the papers, we have found a saving that has enabled us to recalculate the fees down to £528 for five years, whereas in the consultation it was £697 — a reduction of some 29%. We hope that that is welcome. The fee for firearms has remained at £121 for five years, or £2 a month. We believe that that is an appropriate fee, although we reflected on that and whether other savings could be made but we could not identify them.

The proposed introduction of a fee for variation by dealers raised concerns about how it would be collected. I can confirm that — I think that this is what dealers would want — it would be the FAC holder who would send that to the police.

The consultation also touched on application fees. Fourteen consultees agreed with that approach, rather than the grant fee, with 12 against. That would mean that those who are refused an FAC would pay, and we would like to introduce that.

Another issue was the possibility of an initial application fee and a re-grant fee — in other words, a fee for the second application or the second grant. Our current system is based on one fee. We see that as simpler because there is no requirement for legislative change, it reflects the need for checks no matter whether it is a grant or what might be called a renewal, although we accept that there are differences in some respects. We would also be concerned that the change would impact on any new shooters or new dealers. In summary, on fees, the Minister proposes to stick with a single FAC fee and dealer fee.

On young shooters, we consulted on proposals to reduce the age to 12 for the use of shotguns and airguns with a kinetic energy in excess of one joule, provided that the young person is under the supervision of a person aged 21 or over, and that individual would have to have held a firearms certificate for the type of firearm in question for at least three years. The police view initially backed that up. On reflection, however, I think they would prefer the status quo, but they have said that if the decision is made that it should be 12, they will facilitate and work to that.

Most consultees agreed with the lowering of the age at which young people could shoot. There were, however, some differences regarding what the precise age should be. Taking account of the views,

and considering the police position, the Minister proposes to reduce the age to 12. In doing so, he took account of the position elsewhere, in particular in England and Wales, and in the Republic.

Finally, on a banded system, at present the system allows one-off, one-on for shotguns and for firearms of the same calibre and type. Shooting organisations asked the Minister to consider a wider banded system; in other words, enabling the exchange of firearms in specified bands. That was included in the consultation. We identified a number of questions around a new system and how it could operate safely. Clearly, we do not have the benefit of a model elsewhere to rely on in that area. Responses regarding the system have shown that it is not an easy area to settle. Concerns around good reason have come up, and there are also comments ranging from "not enough bands" to "too many bands". We have tried to come up with a system that might be workable before coming to the Committee, but have not been able to do so. It is clear to us that greater engagement is required on that, and we would like to meet a number of consultees to consider the issues further. We are trying to set up meetings in March to accommodate that. We propose, obviously, to come back to the Committee on that issue in due course.

To conclude, we are seeking the Committee's views on the consultation outcomes to take back to the Minister. As I mentioned, in most areas it would require legislative change. Thank you.

The Chairperson: Thank you very much. I have just a couple of points. The dealers are here as well and we will be hearing from them, so I do not intend to take up too much time on questions because I would like to hear from those organisations. The stakeholder responses proposed a central policy unit to enable dialogue on performance in processing applications, given the concerns that have been raised around the Police Service's performance. How has that been taken on board by the Department?

Mr Simon Rogers: There is already a system for engaging, although we accept that that engagement does not take place very often. I think the last meeting was —

Mr Robert Kidd (Department of Justice): Last April. There is a consultative forum, but it is not specifically to deal with issues about delays in processing firearms applications. It is a more general forum, which is chaired by the PSNI and represents a number of dealers, the organisations with an interest in the firearms forum, and DOJ.

The Chairperson: Why has it been 10 months since the last meeting?

Mr Kidd: I cannot honestly say. As far as I am aware, there have not been issues raised. The last meeting was before the consultation, when we discussed a number of the issues related to it.

The Chairperson: Have any of the stakeholders involved in the organisation asked for the forum to meet?

Mr Kidd: We have dealt with a number of individual requests for information on specific queries but, as far as I am aware, there has been no specific request for a meeting.

The Chairperson: How have you established the fee levels both for the dealers and for the individual certificates? Will you elaborate a little more on what independent review took place and, particularly, what review took place of the firearms branch in the police, to make sure that it is doing what it is supposed to do?

Mr Nick Cochrane (Department of Finance and Personnel): I am part of the business consultancy services within the delivery and innovation division, and I undertook the independent review of the firearms licensing processes, with a view to establishing the costs. The fees proposed are based on the processing time in the firearms licensing branch, as set against the processor's hourly rate. They have been calculated to take account of that proportion of the fee. In addition, there is the area around the role of the firearms enquiry officer (FEO). Part of the fee is based on a whole-cost firearms enquiry officer, of which the organisation has 36, but with some elements removed. The elements removed would be things such as the ballistic testing of firearms and guns and their carriage, as those are seen to be a requirement of the Chief Constable, for security reasons, as opposed to being a requirement of firearms licensing.

The Chairperson: The Association of Chief Police Officers (ACPO) review recommended an increase to £92 for a firearms certificate and to £207 for a dealer's certificate. Why are we so out of step, particularly on what the dealer's increase would have to be?

Mr Simon Rogers: The Home Office is responsible for that in GB. Obviously, ACPO may have a view on what the fees might be, but we know from our contacts with the Home Office that, in fact, a fee review needs to be carried out that aims at cost recovery, as we are. Indeed, they are waiting to see how our process goes before moving forward. From our perspective, our responsibility is to make sure that we are providing an efficient service but, at the same time, one that is being paid for. So, although we have looked at what ACPO has said, we do not see anything in it that would change our system in Northern Ireland and our approach to the costing of that.

Mr Kidd: I would add that the ACPO report acknowledges that by stating:

"In collecting £92, this will remain below 50% of the current cost of the actual processing".

So it is far short of a full-cost recovery model.

The Chairperson: What recognition did ACPO give to the firearms industry? I am thinking about the elements that the taxpayer should be supporting because of the benefits that the industry brings to the economy? If ACPO did not do that, what recognition does the Department here give to the benefits of the firearms industry? Is the industry a nuisance or does it benefit our economy?

Mr Kidd: It is acknowledged that they are certainly a service provider. One of the ACPO reports states that it is the view of ACPO's firearms and explosives licensing working group:

"The actual process of firearms licensing is not a part of core policing duties and therefore the cost of firearms licensing should not be borne by the public purse. The licensing system should therefore recover its cost through an appropriate fees structure."

It goes on to acknowledge certain elements, which are those that we have taken account of and omitted from the costing process.

The Chairperson: The police do a lot of things that would not necessarily be deemed part of their core function. Indeed, an example would be trying to recover the cost of policing parades. Therefore, it is not unusual for police to seek full cost recovery for what they do, but there is always recognition that there is a broader interest for the public, which is why police do not seek full cost recovery for all their services. Again, my particular question was this: what benefit does the Department deem the firearms industry to bring, and how is that recognised in the fee structure?

Mr Simon Rogers: We acknowledge the benefit of the industry. However, we must look equally at the benefit to policing of having this resource available to the service on the ground. We also have to look at the cost, comparative to other systems. So, for example, the cost of a dealer's licence is substantially more in the Republic of Ireland than here and covers a shorter period. We think that the rate is proportionate, given the need to ensure public safety.

The Chairperson: OK. I notice that you have not commented, Mark, from the police perspective, and your body language seems to suggest that you are pretty disengaged. Is there anything that you want to say?

Chief Superintendent Mark Hamilton (Police Service of Northern Ireland): First, Chair, I am not at all disengaged, and I apologise if that is the impression. The Chief Constable would obviously welcome the prospect of full cost recovery for this service. Firearms licensing does not feature as a priority in any of our consultations with communities on what they want us to be doing and on where they want us to focus our attentions. Therefore, full recovery of the cost would allow us to refocus those resources into where the community is asking us to put our policing resources.

The contribution of the firearms community to the local economy is recognised. The Chief Constable's position is purely that of being the head of the licensing body for an activity that requires licensing because of some of the public safety issues that it engenders. People use firearms due to the nature of their work and people use them for sport. In Northern Ireland, there is more sporting activity

involving the use of handguns than in any part of Great Britain, because we are the only area that allows handgun permits.

Therefore, our position is guided principally by public safety and also where it sits with our stated priorities for the community and the feedback that we get. We are fully supportive of full cost recovery.

The most pressing issue for the Chief Constable to answer is around efficiency. The firearms licensing branch has been widely criticised over a number of years. Historically, I think that was quite legitimate. I know from my own experience that some of the processes took a considerable amount of time. I am now reassured that, in the vast majority of cases, the processing times are very expeditious and have been massively reduced, in some cases from a year down to a month for the granting of a certificate. We are committed to having 85% of applications dealt with within 90 days. We feel that we can meet that, if not exceed it. There will be some cases where there is extra delay because of other issues around a specific application pertaining to a person that we need to work out. However, we are confident that, with the lean review, the internal process review and the changes that have been made to what we term the "touch time", we have significantly improved the amount of time that we spend on processing.

Mr McCartney: Is the full cost recovery figure tabulated so that you can follow how much each licence has cost, or is it just a general pitch for what a licence would cost?

Mr N Cochrane: Each type of application for a licence, whether it is for an FAC, a variation or a dealer's certificate, has been costed on the basis of what it costs in time taken and the proportion of the FEO activities involved. How the income compares with the expenditure of the branch was included at page 17 of the original report that I did, which detailed the expenditure of the branch in administering firearms licensing, compared with the income that it was getting.

Mr McCartney: How much of that cost would be police time?

Mr N Cochrane: Very little of the work would fall to police officers. I stand to be corrected, but the figures are all based on the processing being done by civilians. A civilian's time is charged at a significantly lower hourly rate than that of police officer.

Mr McCartney: What is the annual income for firearms licences and dealers' licences?

Chief Superintendent M Hamilton: It is between £700,000 and £800,000 in our branch a year.

Mr McCartney: Does that then offset the costs to your budget? How is the £800,000 used? I am asking because a police officer's salary is paid centrally. If £800,000 is made, is money sent to the PSNI for the time of its officers?

Mr Simon Rogers: In effect, the police are covering about a third of the cost of running firearms licensing, which means that resources have to come from elsewhere. We are trying to release those resources back into the Police Service for other functions and tasks.

Mr McCartney: I might not have made myself clear. If you are looking for full cost recovery, which is, say, £50, and you get that, but a person's time has been paid for by someone else, is there a true picture of what true cost recovery is? Do you get my point? If it costs £10 for a police officer to be part of this process, but the PSNI is not given that £10, it is not full cost recovery, because someone else has paid someone to do a job that you paid for.

Mr Kidd: The costings of this model are based on a civilianised model, so there are no charges for police input, if there is any police input.

Mr McCartney: There is no charge for any civilian who is paid from another budget line?

Mr Kidd: No. The budget is self-financing in firearms and explosives branch.

Chief Superintendent M Hamilton: It is anticipated that all moneys recovered, on top of the main grant, will come directly back to the Chief Constable.

Mr McCartney: A number of consultees said that there should be two fees: one for the first application and another for the second application. The Minister said that he wants the fee system to be as straightforward as possible. That does not fill you with confidence that the second application will be the same cost as the first one. If there is full cost recovery, you can see why people would say that there should be two fees. If the second application costs less than the first one, you can see why people would say that it should be graduated.

Mr Simon Rogers: Take, for example, a firearm certificate at £21: the calculation of the fee is averaged out across all first applicants and any reapplication. If we went down the route of changing that so that a first applicant paid x and every re-grant paid y, there would be two different fee levels, and there would be a differential there because of the nature of the processes. For example, there are more checks ordinarily for a first application, because there are pre-checks of sites and more site visits, which are more expensive.

Mr McCartney: That point about averaging out the cost is not in the document in front of me. That is fine. Thank you.

Ms McCorley: Go raibh maith agat, a Chathaoirligh. At the Committee for Culture, Arts and Leisure this morning, we heard from some of the gun groups about some of their difficulties and issues. They have concerns about delays in the processes, and all that. Mark, you said that that has been narrowed down, but I am not sure that they would see it in the same way. Given that there has probably been some breakdown in communication, or perhaps communication has not been that great, how useful do you think it would be if that stakeholder group were to meet regularly so that they had a forum for raising issues regularly?

Chief Superintendent M Hamilton: In the spirit of the Police Service engaging with all communities, including the firearms community, I have no difficulty in committing to a process through which people can engage and understand.

The difficulty that I have is that each firearms application is an individual application pertaining to one single person. Quite often, it relates to some personal data about that individual. The ability to talk about that in a forum with other people and to talk about specific issues even with that person during the application process is really highly limited. Therefore, I support talking to anyone about such concerns.

Where the delays are systemic, we have to make sure that we work those out with the community. Where the delays are specific to an individual and an individual's case, again, I have to make sure that there are no delays in the system processes. Some cases will take longer than others because of some very specific issues, which may be something as simple but as important as having to write to a GP three or four times to try to get the GP report. It is not unheard of for the process to be as repetitive as that. Equally, I would not discuss somebody's GP report, even the generalities, with a forum.

It is important for me to recognise that applicants consistently challenge us about delays. I know that it causes a great deal of concern, if not anger, at times. I have recognised that, particularly in the past, the process was slow. It is now considerably quicker. Does it deliver for every applicant as quickly as he or she would like? No. I believe that it does for the majority, but there are gaps. Some of those gaps are very legitimate, while some, I accept, can be improved on. I have no difficulty with committing to an ongoing consultative process, but with parameters around the privacy of people's applications.

Ms McCorley: Will you commit to meeting more frequently than what seems to have been the case?

Chief Superintendent M Hamilton: Yes. I have no difficulty with my department committing to that. If people were looking for access to the Assistant Chief Constable, for example, I could not commit to that. However, for firearms licensing branch, and so forth, I have no difficulty with that.

Mr Dickson: Apologies for being a few moments late at the beginning. All that I wish to do is place on record my interest as a member of the international all-party committee on the limitation of small arms and light weapons.

Mr Humphrey: Good afternoon. I, too, apologise for being late. Like Ms McCorley, I was at the Committee for Culture, Arts and Leisure this morning, at which evidence was given. We heard some stories of difficulties with police response times. I am sure that we will hear that evidence later. One case seemed to take an inordinate amount of time. I obviously do not know the details, and I am not asking you to comment on them, because you will not know them either off the top of your head, and it is not for this place to discuss them. It sounded to me, from some of the evidence that was given this morning, as though there seems to be a communication or dialogue issue. At the police end of it, is there an issue, because of your department's lack of resources, with ensuring that applications are dealt with expeditiously?

Chief Superintendent M Hamilton: I am reassured by my staff that they are dealing with applications expeditiously. Like any department in the Police Service, there are times when the resourcing goes up and times when it goes down, and there are gaps. That is no different in this branch, in community safety branch, for neighbourhood officers, or whatever. There are, quite constantly, gaps in staffing levels in police and police staff. We always try to resource up to as high a percentage as we can, but we generally do not run at 100% resourcing, for all sorts of budgetary reasons that are contained in the main grant.

The point that we are trying to make around full cost recovery is that we should be running that department according to that full cost recovery. We should not allow for inefficiencies elsewhere in the full budget. The hope is that we would not have to have internal discussions about where resources sit. There should be a ring-fenced resource for a certain department, and that has to be the commitment back to the community.

There have been a lot of very difficult discussions around this. The staff spend quite a bit of time every day dealing with very disgruntled people. We are guilty of this being a process: it is a firearms licensing process. We are processing licences on behalf of people. That is how it has evolved. We have tried our utmost to improve the processes, and I think that we have done so. The staff have done a very good job compared with where they were a number of years ago. Under their current leadership, they have done a great job in improving the processes.

As I said to Rosie, if there is more that we can do to reassure people, I am willing to do it. I am not blind or deaf to a lot of the concerns that have been raised.

Mr Humphrey: You clearly accept that, in some cases, there are problems. Obviously resources are not infinite.

Chief Superintendent M Hamilton: Absolutely.

Mr Humphrey: Are the people who are to deal with it police officers or public servants?

Chief Superintendent M Hamilton: No police officers, other than me as the deputy head of department and George Hamilton as head of department, are connected to the process.

Mr Humphrey: I ask because there is clearly an issue around costs and opportunity costs. If things are not progressed, there is a clear cost. I am sure that you continually review, but it is something that needs to be monitored. Income is important to your department, and greater efficiencies in the processing of the applications will mean greater income, which, ultimately, could mean more resource being put into the system.

Chief Superintendent M Hamilton: Yes, and, candidly, I accept that. In the vast majority of cases, we are doing that. There are a number of cases that, for medical reasons or, quite often, for intelligence reasons, slow down. Some of those have got more slow recently, if only for the reason that I and the head of department, George Hamilton, have decided that some of those cases need to be better questioned, rather than our just accepting what has been presented to us at face value. Rather than doing a refusal based on an intelligence case without actually interrogating that case a bit further, we will have further delay, and that is the case at present. That should be to the benefit and in the interests of everyone, and that part of the process is not managed in firearms licensing branch per se but by the police outside of that at present.

Mr Humphrey: In conclusion, I am not suggesting that, in all those processes, corners should be cut.

Chief Superintendent M Hamilton: The system is there, and, for good or bad, we have a system to try to ensure that people are fit to have a weapon and that they have good reason for having a weapon. Those are the two criteria, and the system is there. We try to ensure that that system has an increasing level of rigour in the interests of public safety, and for no other reason. It is certainly not to increase the times and certainly not for the purposes of increasing the costs. It is certainly not to question the fitness of the vast majority of people who have a firearms certificate in Northern Ireland. That is far from the case.

I suppose that we are always looking to deal with the exceptional, and there are exceptional situations, where fitness and good reason are called into question or where there is a public safety issue. Occasionally that does happen, and, therefore, we have to apply a high level of rigour. That includes, for example, recent issues where I have self-referred the Police Service to the ombudsman where there has been some sort of public incident and questions raised around whether we should have granted a certificate. The Chief Constable has tried to put that level of rigour to this, but it is not done with the desire of slowing the process down or frustrating people who need weapons for their job or who use them as part of their sporting activity.

Mr Easton: One of the new measures removes the need for the Chief Constable to issue certificates for people coming in from the rest of the UK. How many people came in last year? You obviously feel that there is no need for that any longer. It is a bureaucracy thing.

Mr Kidd: In 2012, 587 GB certificates were held.

Mr Easton: Doing away with that would remove a lot of bureaucracy?

Mr Kidd: The only requirement would be for someone bringing in an air rifle, because the licensing requirements for air rifles in GB are different, in that you do not require a firearms certificate for an air rifle in every case. That would still require a certificate so that the PSNI is aware that that firearm had travelled into Northern Ireland.

Mr Easton: You feel that there is no security risk with doing away with that?

Mr Kidd: The weapon has been licensed with a GB police force and is usually travelling for sporting or competitive purposes.

Mr Easton: The other bit concerns the granting or renewal of firearms dealers' certificates, and the price has gone up quite substantially. How many firearms dealers' certificates are there in Northern Ireland?

Mr Kidd: There are 108 registered firearms dealers in Northern Ireland.

Mr Easton: Will the huge increase from £150 to £528 cover all your expenditure?

Mr Kidd: Yes. That is predicated on a full cost recovery model.

Mr Easton: Do you not make any profit out of that?

Mr Kidd: No. It is not profit-making.

The Chairperson: Can you elaborate on why ACPO deems full cost recovery to be £274, yet its recommendation was £207? You said earlier that the individual licence fee is only 50%, but those figures are not far off those for the firearms dealer. If it has deemed that full cost recovery is £274, why is it twice as much here?

Mr Kidd: I cannot comment on the detail, Chair. I do not know what the ACPO calculations were based on and the number of visits, and so on. The legislation in GB is different from ours, but in the Northern Ireland system, there will be an initial visit when someone applies to become a registered firearms dealer and discussions with crime prevention, and so on. There is a process that we will go through. Our process is costed on the Northern Ireland system, and the system in GB is presumably different.

The Chairperson: ACPO's recommendations also take into account the inefficiencies that it recognised in the system, and it recommended the reduced fees so that those inefficiencies could be driven out of the system. Once that has happened, it will then have another review of the fees. Are the proposals that have been put forward today calculated on the basis of driving out the inefficiencies? Will they be decreased after another review?

Mr N Cochrane: I can perhaps help with that. When I was undertaking the review, one of my colleagues in business consultancy was undertaking the lean review — the whole systems thinking review — of firearms licensing branch, and, because I was working alongside him, I had the benefit of being able to see the outcomes of his review as he was going along. The aim of that review was, given the legislative framework and the IT systems that are in place, to make firearms licensing as efficient as it could possibly be. During the review, it was found that there was relatively little scope to reduce or remove unwanted or unnecessary process time. The delays and inefficiencies in the firearms licensing system were due to downtime, shelf time or dead time when that application was waiting to be worked on. The costings that were involved were in process time. Therefore, the inactivity in the application when it is sitting on a shelf has been excluded from the costings. Only the core activities have been costed.

The Chairperson: I thank you all very much for coming along. We appreciate it.